

NOT RECOMMENDED FOR PUBLICATION

No. 23-3575

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Sep 12, 2023
DEBORAH S. HUNT, Clerk

DAVID GIPSON,)	
)	
Plaintiff-Appellant,)	
)	
v.)	ON APPEAL FROM THE UNITED
)	STATES DISTRICT COURT FOR
HAMILTON COUNTY COURT OF COMMON)	THE SOUTHERN DISTRICT OF
PLEAS, et al.,)	OHIO
)	
Defendants-Appellees.)	
)	

ORDER

Before: NORRIS, McKEAGUE, and MATHIS, Circuit Judges.

This matter is before the court upon consideration of a motion to dismiss the appeal for lack of jurisdiction.

David Gipson filed a civil action against numerous Hamilton County, Ohio, judges and officials. Defendants Judges Robert Ruehlman, Thomas Heekin, Jody Luebbbers, and Terrence Nestor (“the judicial defendants”) filed a motion to dismiss. Gipson filed a response that also included a request for preliminary injunctive relief. On July 5, 2023, the district court granted the judicial defendants’ motion to dismiss and denied Gipson’s motion for injunctive relief.

On July 13, 2023, Gipson filed an appeal from the district court’s order. The judicial defendants now move in this court to dismiss the appeal. They argue that the district court’s July

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5, 2023, order is not final or appealable because it did not end the litigation, which remains pending against the non-judicial defendants.

As the judicial defendants argue, this court's jurisdiction is generally limited to "final decisions of the district courts." 28 U.S.C. § 1291. There is no dispute that the district court's July 5, 2023, order is not a final decision. The order disposed of fewer than all of the claims or parties involved in this action and did not direct entry of a final, appealable judgment under Federal Rule of Civil Procedure 54(b). *See Liberty Mut. Ins. Co. v. Wetzel*, 424 U.S. 737, 742–45 (1976); *Solomon v. Aetna Life Ins. Co.*, 782 F.2d 58, 59–61 (6th Cir. 1986). However, the portion of the July 5, 2023, order denying a preliminary injunction is appealable pursuant to 28 U.S.C. § 1292(a)(1). *See United States v. Contents of Accounts*, 629 F.3d 601, 605 (6th Cir. 2011); *Hudson v. Barr*, 3 F.3d 970, 973 (6th Cir. 1993).

Accordingly, it is ordered that the judicial defendants' motion is **GRANTED IN PART** and appeal No. 23-3575 is **DISMISSED** as it applies to the district court's grant of their motion to dismiss. Only issues regarding the denial of the preliminary injunction may be raised on appeal.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 09/12/2023.

Case Name: David Gipson v. Hamilton County Court of Common Pleas, et al
Case Number: 23-3575

Docket Text:

ORDER filed: Accordingly, it is ordered that the judicial defendants' motion [7032507-2] is GRANTED IN PART and appeal No. 23-3575 is DISMISSED as it applies to the district court's grant of their motion to dismiss. Only issues regarding the denial of the preliminary injunction may be raised on appeal. Alan E. Norris, Circuit Judge; David W. McKeague, Circuit Judge and Andre B. Mathis, Circuit Judge.

The following document(s) are associated with this transaction:

Document Description: Order

Notice will be sent to:

David Gipson
10 Lakefield Drive
Milford, OH 45150

A copy of this notice will be issued to:

Mr. Cooper David Bowen
Mr. Zachary Kyle Garrison
Mr. Richard W. Nagel
Mr. Joseph Jonathan Prem
Ms. Pamela J. Sears
Ms. Linda L. Woeber